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Please Respond to:
New York, NY

January 11, 2019

Via ECF and Facsimile

The Honorable Vera M. Scanlon, U.S.M.J.
United States District Court, Eastern District of New York
United States Courthouse
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Luisa Janssen Harger Da Silva v. New York City Transit Authority, Metropolitan
Transportation Authority and Raqia Shabazz
Index No. : 1:17-CV-04550-FB-VMS
D/L : August 2, 2016
Our File : NYCTA-00547

Dear Judge Scanlon:

We represent the defendants in this action. We write in conjunction with Plaintiff's counsel to submit a joint status letter regarding discovery, and a joint request for an adjournment of the upcoming Status Conference, which is scheduled for January 15, 2019.

Since our December 21, 2018 letter to the Court, the parties have met and conferred two additional times in anticipation of drafting this letter and appearing for the Status Conference. The Parties have been working together to narrow and to frame the scope of the disputes and have made progress in complying with the outstanding discovery requests. Despite this progress, as detailed below, there are still outstanding discovery issues at this time which need to be addressed. The Parties are ready and willing to appear for the conference scheduled for January 15, 2019, but, due to the holiday season, the first available date for the Transit Authority to meet with its counsel to discuss the outstanding discovery issues is Friday, January 18, 2019. Pursuant to the Court's instructions, we are attempting to resolve as many discovery conflicts as possible without the Court's intervention.

The Honorable Vera M. Scanlon, U.S.M.J.

Page 2

January 11, 2019

At this point, the Parties have agreed that Plaintiff will produce discovery, as detailed below, prior to her deposition. The Transit Authority still has many documents under review that will be discussed at the meeting scheduled for January 18, 2019, along with the topics that were brought up at this week's two meet and confers. As discussed above, although all Parties are willing to appear at the Conference on January 15, 2019, we will have a better sense of the scope of the discovery that remains in dispute after the upcoming Transit Authority meeting and another meet and confer, which is currently scheduled for January 22, 2019. Nothing in these meetings will affect the scheduling of the depositions of the Plaintiff or the Train Operator.

The Parties have made progress as follows regarding the discovery issues in this case:

- Defendants have requested, and Plaintiff has agreed to amend her response to interrogatory number 20 to reflect only Plaintiff's personal knowledge;
- Defendants have requested, and Plaintiff has agreed to conduct searches on Plaintiff's social media for discussions of how the accident happened and report back to defendants regarding same. Plaintiff also agreed to preserve other social media information regarding her damages so that it will be available during the damages phase of discovery;
- Defendants have produced a privilege log and amended it several times reflecting the additional documents that have been produced after the various meet and confers;
- Plaintiff has requested that the Defendants inform Plaintiff about what information is kept electronically by the Transit Authority and how far back these electronic records are stored so that the burdensomeness of the various requests can be understood. Defendant will be ascertaining a response as to the various types of records requested and their method of storage;
- Plaintiff has requested that the Defendants inform Plaintiff of their position as to the withdrawing of the language in the security order underlined herein "for the purpose of this agreement non-disclosure of the documents and their information pertain not only to disclosure but their existence as well." As the Defendants are still working to determine the scope of the documents for which they intend to maintain their designation as Security Sensitive, and there is no timeline for said designation, in an effort to avoid court intervention to address same, Plaintiff requested that Counsel for Transit Authority consult with their clients regarding said language by Monday the 14th of January, or, in the alternative, that Defendants specifically designate forthwith the Security Sensitive documents to which the non-disclosure language quoted above would apply. Defendants agreed to take this request under advisement.

Regarding the Status Conference, the original date of the conference was December 17, 2018; the conference was adjourned once until January 10, 2019 and adjourned again to January

The Honorable Vera M. Scanlon, U.S.M.J.

Page 3

January 11, 2019

15, 2019. This is the third request for an adjournment of this conference. All parties agree to this adjournment request.

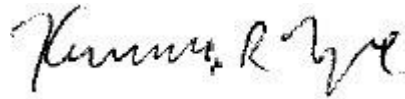
The Parties suggest the following adjournment dates for the status conference: January 24, 2019; January 29, 2019 after 3 PM; and February 6, 2019 in the afternoon.

We thank the Court for its attention to this matter.

Respectfully submitted,

SMITH MAZURE DIRECTOR WILKINS
YOUNG & YAGERMAN, P.C.

By:



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NYCTA-547/960

KRL/krl

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